

MONTANA LEGISLATIVE HISTORY

Chapter 62 1997

Bill H 200 S _____ Original bill & history ☒ C

H. Committee on Judiciary

Hearing Date(s) 1-28 _____ C

_____ C

_____ C

_____ C

Date Out _____ C

S. Committee on Judiciary

Hearing Date(s) 2-10 _____ C

2-12 _____ C

_____ C

_____ C

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

HB 199 INTRODUCED BY KNOX, ET AL.

LC0525 DRAFTER: MACMASTER

REQUIRE NOTICE TO THE SPONSOR OF A BILL THAT BECOMES LAW THAT
INITIAL RULEMAKING IMPLEMENTING THE BILL HAS BEGUN

1/09	INTRODUCED		
1/09	FIRST READING		
1/09	REFERRED TO JUDICIARY		
1/27	HEARING		
1/28	COMMITTEE REPORT—BILL PASSED		
1/30	2ND READING PASSED	99	0
1/31	3RD READING PASSED	96	1
	TRANSMITTED TO SENATE		
2/03	FIRST READING		
2/03	REFERRED TO STATE ADMINISTRATION		
3/06	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/12	2ND READING CONCURRED	50	0
3/13	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	99	0
4/11	3RD READING CONCURRED AS AMENDED	97	0
4/15	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/17	TRANSMITTED TO GOVERNOR		
4/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 340		
	EFFECTIVE DATE: 04/22/97		

HB 200 INTRODUCED BY AHNER, ET AL.

LC0944 DRAFTER: MACMASTER

CRIMINALIZE THE SURREPTITIOUS TAKING OF A PERSON'S PICTURE IN
CERTAIN ROOMS IN A BUSINESS ESTABLISHMENT

1/09	INTRODUCED		
1/09	FIRST READING		
1/09	REFERRED TO JUDICIARY		
1/28	HEARING		
1/29	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/31	2ND READING PASSED	99	0
2/01	3RD READING PASSED	98	0
	TRANSMITTED TO SENATE		
2/03	FIRST READING		
2/03	REFERRED TO JUDICIARY		
2/10	HEARING		
2/14	COMMITTEE REPORT—BILL CONCURRED		
3/06	2ND READING CONCURRED	50	0
3/07	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
3/12	SIGNED BY SPEAKER		
3/13	SIGNED BY PRESIDENT		
3/13	TRANSMITTED TO GOVERNOR		
3/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 62		
	EFFECTIVE DATE: 10/01/97		

HOUSE JUDICIARY

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- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0195	TASH, BILL	1/09	1/20	REQUIRE STATE AGENCY PAY FEE TO FILE CERTAIN WARRANTS, LIENS, AND ABSTRACTS	PASS AS AMENDED	01/27	VOTE: 16-1	TAXATION	1/28
HB0199	KNOX, DICK	1/09	1/27	NOTIFY BILL SPONSOR OF RULE PROPOSAL TO IMPLEMENT BILL	DO PASS	01/27	VOTE: 17-0		1/28
HB0200	AHNER, CHRIS	1/09	1/28	SURREPTITIOUS TAKING OF VISUAL IMAGE IN CERTAIN ROOMS IN PLACE OF BUSINESS	PASS AS AMENDED	01/28	VOTE: 20-0		1/29
HB0208	MARSHALL, ROD	1/09	1/22	INCREASE DUI PENALTIES	PASS AS AMENDED	01/30	VOTE: 18-0		1/31
HB0215	ORR, SCOTT	1/10	1/28	EXPAND DEFINITION OF POLICE DOG TO INCLUDE SEARCH AND RESCUE	PASS AS AMENDED	01/28	VOTE: 18-2		1/29
HB0218	CLARK, ROBERT	1/10	1/20	REVISE REFERENCE TO FED. GUN-FREE SCHOOL ZONE ACT IN INDIVID. LICENSURE LAW	DO PASS	01/20	VOTE: 18-0		1/20
HB0222	ANDERSON, SHIELL	1/10	2/04	DEATH PENALTY SENTENCING AND POSTCONVICTION PROCEEDINGS REVISIONS	PASS AS AMENDED	02/11	VOTE: 11-8		2/12
HB0231	BARNHART, BEVERLY	1/11	1/29	REVISE CHILD CUSTODY & VISITATION; PARENTING PLAN REQUIRED	02/06/97 TABLED 10-7	PASS AS AMENDED	02/18	VOTE: 14-6	2/18
HB0234	BITNEY, ROD	1/11	1/24	PROPOSED CONSTITUTIONAL AMENDMENT TO DEFINE PRINCIPLES FOR CRIMINAL LAWS	PASS AS AMENDED	01/27	VOTE: 16-0		1/31
HB0239	TROPILA, JOE	1/13	1/22	PROHIBIT A NOTARY PUBLIC FROM NOTARIZING THE NOTARY'S OWN SIGNATURE	PASS AS AMENDED	01/30	VOTE: 16-0		1/31
HB0243	DENNY, MATT	1/13	2/06	ALLOW ASSIGNMENT OF CIVIL CLAIMS FOR PENALTIES FOR SHOPLIFTING	PASS AS AMENDED	01/20	VOTE: 20-0		2/11
HB0251	HOLLAND, DON	1/14	2/03	ALLOW JURY COSTS TO BE ASSESSED AGAINST A PARTY IN CERTAIN CIVIL CASES	PASS AS AMENDED	02/05	VOTE: 19-1		2/07

House BILL NO. 200

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT CRIMINALIZING THE SURREPTITIOUS TAKING OF A PERSON'S PICTURE IN CERTAIN ROOMS IN A BUSINESS ESTABLISHMENT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Surreptitious visual recordation -- penalty. An owner, manager, or employee of a business who knowingly surreptitiously records a visual image of a person in a restroom, washroom, shower, bedroom, fitting room, or other room used by a customer, guest, or member of the public to, with a reasonable expectation of privacy, change or try on clothes, bathe, perform intimate bodily functions, or appear nude or partially nude or in underclothes commits the offense of surreptitious visual recordation. A person convicted of the offense of surreptitious visual recordation shall be fined an amount not to exceed \$1,000 or incarcerated for a term not to exceed 6 months, or both, if the victim was an adult and shall be fined an amount not to exceed \$5,000 or incarcerated for a term not to exceed 2 years, or both, if the victim was a minor.

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 45, chapter 5, and the provisions of Title 45 apply to [section 1].

-END-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on January 28, 1997, at
8:00 AM, in Room 312-1

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Daniel W. McGee, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell W. Anderson (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Duane Grimes (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Brad Molnar (R)
Rep. Gerald Pease (D)
Rep. Diane Sands (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)

Staff Present: John MacMaster, Legislative Services Division
Joanne Gunderson, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 215, POSTED 1/22/97
HB 200, HB 257, POSTED 1/20/97
Executive Action: HB 200 DO PASS AS AMENDED
HB 215 DO PASS AS AMENDED
HB 68 TABLED

HEARING ON HB 200

Opening Statement by Sponsor: REP. CHRIS AHNER
{Tape: 1; Side: a; Approx. Time Count: 1.8}

Proponents' Testimony:

BECKY MALENSEK EXHIBIT 1
{Tape: 1; Side: A; Approx. Time Count: 3.1}

KATHRYN LaROE EXHIBIT 2
{Tape: 1; Side: A; Approx. Time Count: 6.9}

ARLETTE RANDASH, Eagle Forum EXHIBIT 3
{Tape: 1; Side: A; Approx. Time Count: 9.5}

MIKE McGRATH, Lewis and Clark County Attorney
{Tape: 1; Side: A; Approx. Time Count: 11.0}

TIM SHANKS, Montana Police Protective Association
{Tape: 1; Side: A; Approx. Time Count: 13.5}

CANDACE TORGERSON, Montana Retail Association
{Tape: 1; Side: A; Approx. Time Count: 15.1}

Questions From Committee Members and Responses:
{Tape: 1; Side: A; Approx. Time Count: 15.9 - 19.8}

Closing by Sponsor: REP. AHNER
{Tape: 1; Side: A; Approx. Time Count: 19.9}

HEARING ON HB 215

Opening Statement by Sponsor: REP. SCOTT ORR EXHIBITS 4 and 5
{Tape: 1; Side: A; Approx. Time Count: 21.1}

Proponents' Testimony:

KATHY McGOWAN, Montana Sheriffs and Peace Officers Association
{Tape: 1; Side: A; Approx. Time Count: 25.8}

RALPH DeCUNZO, Lewis and Clark Search and Rescue
{Tape: 1; Side: A; Approx. Time Count: 27.1}

CHUCK O'REILLY, Lewis and Clark County Sheriff
{Tape: 1; Side: A; Approx. Time Count: 28.7}

CLOYD GROVE, Montana Police Protective Association
{Tape: 1; Side: A; Approx. Time Count: 33.7}

MIKE BATISTA, Department of Justice
{Tape: 1; Side: A; Approx. Time Count: 35.5}

ROXANNE LaGRECA, Absaroka Search Dogs
{Tape: 1; Side: A; Approx. Time Count: 37.6}

REP. LIZ SMITH
{Tape: 1; Side: A; Approx. Time Count: 41.2}

Questions From Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Count: 43.3 - Tape 1; Side B; 4.6}

Closing by Sponsor: REP. ORR

{Tape: 1; Side: B; Approx. Time Count: 4.7}

HEARING ON HB 257

Opening Statement by Sponsor: REP. DEB KOTTEL

{Tape: 1; Side: B; Approx. Time Count: 7.1}

Proponents' Testimony:

GEORGE CORN, Montana County Attorneys Association

{Tape: 1; Side: B; Approx. Time Count: 14.6}

MIKE McGRATH, Montana County Attorneys Association

{Tape: 1; Side: B; Approx. Time Count: 20.8}

CHARLES BROOKS, Yellowstone County

{Tape: 1; Side: B; Approx. Time Count: 23.5}

EXHIBIT 6

BOB GILBERT, Montana Magistrates Association

{Tape: 1; Side: B; Approx. Time Count: 25.6}

GORDON MORRIS, MACO

{Tape: 1; Side: B; Approx. Time Count: 26.8}

JIM KEMBEL, City of Billings

{Tape: 1; Side: B; Approx. Time Count: 27.5}

MIKE MATHEW, Association of Counties and County Commissioners

{Tape: 1; Side: B; Approx. Time Count: 27.8}

Opponents' Testimony:

RUSSELL HILL, Montana Trial Lawyers Association

{Tape: 1; Side: B; Approx. Time Count: 29.3}

Questions From Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Count: 32.6 - end of tape}

Closing by Sponsor: REP. KOTTEL

{Tape: 2; Side: A; Approx. Time Count: 0.1}

EXECUTIVE ACTION ON HB 200

Motion: REP. AHNER moved HB 200 DO PASS.

{Tape: 2; Side: A; Approx. Time Count: 14.0; Comments: Beginning of this tape includes discussion about whether to act on HB 200.}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 14.1 - 24.5; Comments: REP. CLARK relinquished the Chair to REP. MCGEE.}

Motion: REP. MOLNAR moved to amend the language on page 1, line 10 of HB 200.

{Tape: 2; Side: A; Approx. Time Count: 24.6; Comments: REP. CLARK resumed the Chair.}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 24.8}

Motion: REP. MOLNAR moved a substitute amendment to the language on page 1, line 10 and page 1, line 11.

{Tape: 2; Side: A; Approx. Time Count: 25.4}

Motion/Vote: REP. MC GEE moved a division on the amendment. The motion carried by unanimous vote.

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 27.5 - 31.4}

Motion/Vote: REP. ELLINGSON moved a substitute for the wording on page 1, line 10. The motion carried by unanimous vote.

{Tape: 2; Side: A; Approx. Time Count: 31.5}

Motion/Vote: REP. GRIMES moved HB 200 DO PASS AS AMENDED. The motion carried 20 - 0.

{Tape: 2; Side: A; Approx. Time Count: 33.9}

EXECUTIVE ACTION ON HB 215

Motion: REP. DIANA WYATT moved HB 215 DO PASS.

{Tape: 2; Side: A; Approx. Time Count: 34.6}

Motion: REP. CURTISS moved amendments to HB 215 as introduced by the sponsor.

{Tape: 2; Side: A; Approx. Time Count: 35.0}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 35.6}

Motion/Vote: REP. KOTTEL moved a substitute amendment deleting amendments 3, 6, and 10 which were proposed by the sponsor. The motion carried by unanimous vote.

{Tape: 2; Side: A; Approx. Time Count: 36.7}

Motion: REP. ANDERSON moved HB 215 DO PASS AS AMENDED.

{Tape: 2; Side: A; Approx. Time Count: 39.9}

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 40.3}

Motion/Vote: REP. KOTTEL moved to strike "mistreats" from line 14. The motion carried by unanimous vote.

Motion: REP. ANDERSON moved HB 215 DO PASS AS AMENDED.

EXHIBIT 1
DATE 1/28/97
HB 200

Becky Malensek
2655 Valley Dr
E. Helena, MT 59635

January 17, 1997

Bob Clark, Chairman
Judiciary Committee
State Capitol 59620

Dear Bob Clark, Chairman:

RE: HB200

My daughter Katie and I have a vested interest in making a new law in Montana. Four years ago my daughter, at the age of 14, was asked to model for promotional record labels for a local record store. To our dismay, what should have been a positive experience turned into a stressful, disheartening, dishonest and a manipulative event of Katie's young life.

The individual who approached Katie for modeling was surreptitiously videotaping my daughter (in his store), without her knowledge, in various stages of undress to the point of total frontal nudity.

This person was charged with an invasion of privacy, which carried nothing more than a label. No fine, no sentence. It is not against the law in Montana to be a 'peeping tom.' He also treated this offence as a casual incidence of no importance. The bottom line, he was a 40-year-old male, using young girls (ages 13+) for his own perverted pleasures. The only reason we discovered the video-tape was because this person was charged with raping a 15 year-old girl. When he was arrested, the police confiscated several video-tapes. After viewing the tapes, there were two juvenile females they were unable to identify. One was my daughter.

What he got was a slap on the wrist. My daughter got **video-raped** which carried a lifelong sentence of humiliation. She was mortified, ashamed, degraded, demoralized, called 'porno-queen' and more. She suffered a total loss of self-esteem and a loss of belief in adults to care for her and a loss in her belief of the judicial system. To Katie, the invasion was so great, yet the legal system didn't protect her when it should have. After four years, Katie is just beginning to recover her losses.

There are two other scenarios to consider with this bill and perhaps an amendment can be made. In one instance, an adult female was video-taped in her own home, by a surveillance device originating from her neighbors house. The device was positioned to view this woman in a certain room she used in her house to read and relax. The neighbor viewed her in various stages of undress. She discovered the surveillance camera at the neighbors house when she noticed a tell-

tale blinking light and became suspicious. She called the police and the video camera and tape were confiscated. This may or may not fall under what we are proposing.

The second instance occurred when a single-parent female rented an apartment from a man, who installed surveillance devices in all of the smoke alarms in every room of her apartment. He video-taped her in the bathroom, kitchen, bedroom and living room. Our proposal could be amended to include these instances if the rental property is considered a 'business.'

What we see is that surreptitiously video-taping can occur, has occurred and will continue to occur. The major problem is that most people don't know they have been violated, until it is too late. My daughter was a juvenile, but this can happen to anyone, at any age, be it male or female.

We feel if this were to become a law, perpetrators would face penalties such as heavy fines and/or a prison sentence. The system has allowed individuals to disown their responsibilities for their crimes and actions and it is time to make them accountable. If this were a law, the safety and well-being of Montana's citizens becomes of utmost importance.

Please give this bill your consideration. Thank you.

Sincerely,

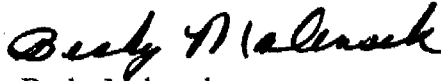

Becky Malensek

EXHIBIT 2
DATE 1/28/97
HB 200

Kathryn LaRoe
3008 Lower River Rd #1
Great Falls, MT 59405

January 7, 1997

To whom it may concern:

My name is Katie LaRoe. When I was 14 years old I was unknowingly video-taped by a man whom I believed to be trustworthy. This is my story.

After school I would go to the mall to await my ride home. After a few weeks a man in a record store began to talk to me. A few weeks passed and I believed that this man could be called a friend of sorts. He seemed like an honest man just trying to run his business.

By the end of the school year I was in his record store almost every day just talking to him and finding out what the latest hits were at the time. About that same time he had approached me about a promotional modeling contest that he would like to have me enter. He said it was just a small contest and the top prize would only be about \$40. I was filled with joyful emotions, the thought of someone thinking that I had what it took to win a prize for a modeling contest astounded me and at the same time gave me the boost of self-confidence that I needed. The time finally came for me to do the contest and I thought it would be fun to bring someone else along. I then asked if I could bring a friend. He agreed and said that wouldn't be a problem.

The night finally came, and we were taken to his store in the mall where we agreed to meet. We then went inside where he directed us to the place in his store where we would be taking the pictures and changing our clothes for the next shoot. He escorted us to an open area of his store where we would be changing behind shower curtains while he waited in a separate room for us to finish.

Everything went really well, or so I thought. Months had passed when my mother had read about a man that had forced himself onto a minor who then ran away in shame. While the police searched his home for evidence they had found some video tapes of young girls just like me. They had said in the news paper article that all of the girls had been identified, all but two.

My mother realized that this was the man that swore that this contest was all on the up and up. She then informed me of the situation and said that

this unidentified girl was most likely me. I was stunned. We then went to the police department and I had to identify myself as an unknowing victim of a pedifiles scheme.

I was in tears not only from disbelief, but from shame, dissapointment and sheer anger. I couldn't understand how a man I considered to be trustworthy could just rip the rug right out from underneath my feet.

When I returned to school the next few days the story began to get around about how I had modeled for this man. My friends then began to call me a porno queen and they began making such comments as " Hey show girl can you put on a little show for us tonight?" I was terribly embarrassed and my self esteem sank to an all time low because of those poeple who made this out to be a joke. You see I was no longer a person...I was a joke.

Although this is unfortunate for me I was able to turn it around for my own advantage. I refused to let this man continue to do this to other innocent girls. I am the only one who took a stand to stop poeple like him. You see an event like this one forces so much shame and public humilliation on to a person that even the strong ones are afraid to take a stand.

Even though I was not attacked physically by this man the mental anguish I went through because of his actions has caused great turmoil in my life. We all need to stand up to stop these predators because people like him start out video taping unsuspecting people and advance to more serious crimes such as mollestation and rape. We need to stop these people before it's too late!

Thank you so much for your time, consideration and support of this bill. If we all work together we can stop this crime.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Kathryn LaRoe'.

Kathryn LaRoe

HBIT 3
DATE 1/28/97
PAGE 200

HB 200
January 28, 1997

Mr. Chair, members of the committee, for the record my name is Arlette Randash, a lobbyist for Eagle Forum, a pro-family advocacy group. We rise in support of HB 200.

If the past two sessions of the legislature have done anything they have convinced us of the pain and expense both emotionally and financially for victims of sex offender crimes. Young people are particularly vulnerable to exploitation. Sex offenders are adept at baiting anyone, especially the young. This bills tiered penalties reflect the appropriate gravity that perpetrators should be subject to for subjecting young victims to years of emotional pain and victimization. And often a victimization doesn't end because there is no effective means to halt the distribution of the sexually explicit pictures.

There is no legislative action that can restore the faith of a person whose trust has been betrayed, whose innocence has been stolen. But legislative action can be taken to prevent its happening again. Please support HB200.

SENATE JUDICIARY

Page 2

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0135	1/24	2/05	CONCUR AS AMENDED	VOTE: 10-0	2-6	2/08		
HB0137	SMITH, LIZ	1/30	3/07	NO INQUEST FOR PRISONER DEAD FROM DEATH SENTENCE OR TERMINAL CONDITION	CONCUR AS AMENDED	VOTE:10-0	3-7	3/12
HB0141	KEENAN, BOB	1/20	1/31	REVISE ADMINISTRATIVE PROVISIONS CONCERNING SUPREME COURT	CONCUR	VOTE:10-0	1-31	1/31
HB0159	BARNHART, BEVERLY	3/03	3/19	ALLOW DPHHS TO INITIATE CHILD CARE REMEDY IN JUSTICE, CITY, MUNI. OR DIST. COURT	CONCUR	VOTE:10-0	3-19	3/21
HB0163	JOHNSON, JOHN	3/28	4/07	REVISE ADOPTION LAWS	CONCUR AS AMENDED	VOTE: 10-0	4-8	4/09
HB0168	JOHNSON, ROYAL	1/30	3/07	GENERALLY REVISE CHILD SUPPORT ENFORCEMENT LAWS	CONCUR	VOTE:10-0	3-7	3/08
HB0195	TASH, BILL	2/19	3/04	REQUIRE STATE AGENCY PAY FEE TO FILE CERTAIN WARRANTS, LIENS, AND ABSTRACTS	CONCUR	VOTE:10-0	3-5	3/06
HB0200	AHNER, CHRIS	2/03	2/10	SURREPTITIOUS TAKING OF VISUAL IMAGE IN CERTAIN ROOMS IN PLACE OF BUSINESS	CONCUR	VOTE:10-0	2-12	2/14
HB0203	JOHNSON, ROYAL	3/03	3/19	REVISE CHILD ABUSE & NEGLECT LAWS	CONCUR AS AMENDED	VOTE:10-0	3-25	3/26
HB0215	ORR, SCOTT	2/05	2/20	EXPAND DEFINITION OF POLICE DOG TO INCLUDE SEARCH AND RESCUE	CONCUR	VOTE:10-0	2-20	2/20
HB0218	CLARK, ROBERT	1/23	1/31	REVISE REFERENCE TO FED. GUN-FREE SCHOOL ZONE ACT IN INDIVID. LICENSURE LAW	CONCUR	VOTE:10-0	1-31	1/31
HB0222	ANDERSON, SHIELL	2/19	3/05	DEATH PENALTY SENTENCING AND POSTCONVICTION PROCEEDINGS REVISIONS	CONCUR AS AMENDED	VOTE:9-1	3-7	3/12
	BARNHART, BEVERLY			REVISE CHILD CUSTODY & VISITATION; PARENTING PLAN REQUIRED				

HOUSE BILL NO. 200

INTRODUCED BY AHNER, MASOLO, MCGEE, MOLNAR, BERGMAN, GRIMES, WATERMAN, HARPER,
SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT CRIMINALIZING THE SURREPTITIOUS TAKING OF A PERSON'S
PICTURE IN CERTAIN ROOMS IN A BUSINESS ESTABLISHMENT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Surreptitious visual recordation -- penalty.** An owner, manager, or employee of a business OR A LANDLORD who knowingly surreptitiously records a visual image of a person in a restroom, washroom, shower, bedroom, fitting room, or other room used by a customer, guest, TENANT, or member of the public to, with a reasonable expectation of privacy, change or try on clothes, bathe, perform intimate bodily functions, or appear nude or partially nude or in underclothes commits the offense of surreptitious visual recordation. A person convicted of the offense of surreptitious visual recordation shall be fined an amount not to exceed \$1,000 or incarcerated for a term not to exceed 6 months, or both, if the victim was an adult and shall be fined an amount not to exceed \$5,000 or incarcerated for a term not to exceed 2 years, or both, if the victim was a minor.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 45, chapter 5, and the provisions of Title 45 apply to [section 1].

-END-

room, and I don't believe families participated. SEN. ESTRADA has a bill to help pathological gamblers. I am not looking forward to the time when we have thousands of little compulsive gamblers.

HEARING ON HB 200

Sponsor: REP. CHRIS AHNER, HD 51, Helena

Proponents: Becky Malensek, Helena
Kathryn (Katie) LaRoe
Arlette Randash, Eagle Forum
Candace Torgerson, Montana State Bar Pro Bono
Lobby Committee and Montana Retail Assoc.

Opponents: None

Opening Statement by Sponsor: REP. CHRIS AHNER, HD 51, Helena. I will let the others describe the bill for you.

Proponents' Testimony: Becky Malensek, Helena (EXHIBIT #4). Five years ago my daughter was asked to model for a record company in the mall. Later on she became devastated when she found out she had been video-taped while she was undressing/changing clothing. That man invaded her privacy.

It took us four years in civil court, and all he got was a slap on the wrist and a charge of invasion of privacy. This situation caused my daughter to lose trust in adults and the legal system. I believe this legislation is helping her self-esteem now.

Kathryn (Katie) LaRoe (EXHIBIT #5). I am the victim. I was approached by a man at the record store. He made comments to stay in front of the curtain when changing clothes. Later he raped and molested a girl, and the police confiscated the video tapes in his home. It was then that I found out I was on a tape. This was humiliating and devastating. I was crushed. I don't believe people should have to worry about this. We need to stop these things now.

Arlette Randash, Eagle Forum, asked the Committee to support the bill.

Candace Torgerson, Montana State Bar Pro Bono Lobby Committee and Montana Retail Association. We support the bill and ask your favorable consideration.

Opponents Testimony: None

Questions From Committee Members and Responses: VICE CHAIRMAN LORENTS GROSFIELD. Do we have another Senate bill on the same issue? CHAIRMAN CRIPPEN. Yes.

SEN. HALLIGAN. SEN. FRANKLIN felt that both bills could stand alone. REP. AHNER. HB 200 deals with the public issue.

SEN. CRIPPEN. Did you ever go to the mall owners and pursue any action against them, as this man clearly violated the terms of his lease. Becky Malensek. No, I didn't think about it.

Closing by Sponsor: REP. AHNER. I believe it took courage for Katie to come forward on this issue, and that this legislation is part of her healing process. I ask the Committee for favorable consideration.

HEARING ON SB 283

Sponsor: SEN. BURNETT, SD 12, Luther

Proponents: None

Opponents: None

Opening Statement by Sponsor: SEN. BURNETT, SD 12, Luther. I believe the Department's input is acceptable. I'm trying to reach their 'untouchables'.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: Hank Hudson, Administrator, Division of Child and Family Services, Department of Health and Human Services (DHHS). We are offering a possible amendment (EXHIBIT #6). Some people believe they've been unfairly treated by the Department, but I believe the Department is doing it's job, although bias can be present at times.

{Tape: 2; Side: B; Approx. Time Count: #14.0; Comments: None.}

Carolyn Clemmons, Deputy County Attorney, Lewis and Clark County. I've been handling these cases for twelve years. I believe the amendments go a long way in cleaning up the bill, but it still has inherent problems. Many times there are no parents available, at the time the petition is filed, to supply a statement to the Judge or to present an affidavit to the Court. We do need as much information as possible supplied to the Judge.

In 90 percent of cases, we don't even know where the father is. The statute allows 20 days to come before the Court and present the story, and to come into court with an attorney. It is difficult to explain to the Court why parents left a child, so it is beneficial to allow them time to get with an attorney. I would support the bill with the amendments.

Ann Gilkey, Department of Health and Human Services (EXHIBIT #6). The amendments would require the Department to interview the

scams. SEN. SHEA said "even one scam is too many". It is far worse to be scammed by the government than by crooks.

This problem is far-reaching. Last session a lawyer said he'd get this declared unconstitutional if it passes. That happened in the Senate Judiciary Committee. Five minutes after the Committee recessed, this attorney apologized over and over again. I investigated this on tapes and in the minutes last summer, but it was gone from the tapes in both the House and the Senate. It is time for the Legislature to take its rightful place and get on with its work. The Legislature is the only group where we can use impeachment powers. I ask you to pass this bill, and appreciate this hearing.

EXECUTIVE ACTION ON HB 200

Amendments: Valencia Lane. The amendment requested by SEN. FRANKLIN affects Subsection (b) of SB 219, with no changes to HB 200. This way they can both pass without conflicting. The Code Commission asked me to include a coordination instruction to put both of them together into one section of the Code, if they are both passed and approved (page 2 of the amendment). I thought it better to have similar criminal sanctions in Subsection (4) of SB 219 and Subsection (4)(b) of HB 200. So you are incorporating HB 200 into SB 219.

Motion/Vote: SEN. ESTRADA MOVED HB 200 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 219

Discussion: VICE CHAIRMAN LORENTS GROSFIELD. I do not understand the amendment. Valencia Lane. Both sponsors wanted their bills to pass, to stand alone.

Motion: SEN. BARTLETT MOVED TO ADOPT AMENDMENTS sb021901.av1. - EXHIBIT 10.

Substitute Motion: SEN. RIC HOLDEN MOVED TO AMEND SECTION 1, (4) (A) TO MAKE IT CONSISTENT WITH HB 200, "\$15,000 AND NOT TO EXCEED TWO YEARS".

Discussion: Valencia Lane. If they're going to be identical we don't need subsection (a) and (b), we only need one. SEN. HOLDEN. We need to simplify this for law enforcement.

Vote: SEN. HOLDEN'S SUBSTITUTE MOTION FAILED WITH SEN.S ESTRADA JABS, MCNUTT, BARTLETT AND DOHERTY VOTING NO.

Motion: SEN. BARTLETT MOVED SB 219 DO PASS AS AMENDED.

Discussion: VICE CHAIRMAN GROSFIELD. I'm troubled by how general the language is concerning "loitering" and "the vicinity . . ." Could this be used in a threatening manner by some

HOUSE BILL NO. 200

INTRODUCED BY AHNER, MASOLO, MCGEE, MOLNAR, BERGMAN, GRIMES, WATERMAN, HARPER,
SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT CRIMINALIZING THE SURREPTITIOUS TAKING OF A PERSON'S
PICTURE IN CERTAIN ROOMS IN A BUSINESS ESTABLISHMENT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Surreptitious visual recordation -- penalty.** An owner, manager, or employee of a business OR A LANDLORD who knowingly surreptitiously records a visual image of a person in a restroom, washroom, shower, bedroom, fitting room, or other room used by a customer, guest, TENANT, or member of the public to, with a reasonable expectation of privacy, change or try on clothes, bathe, perform intimate bodily functions, or appear nude or partially nude or in underclothes commits the offense of surreptitious visual recordation. A person convicted of the offense of surreptitious visual recordation shall be fined an amount not to exceed \$1,000 or incarcerated for a term not to exceed 6 months, or both, if the victim was an adult and shall be fined an amount not to exceed \$5,000 or incarcerated for a term not to exceed 2 years, or both, if the victim was a minor.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 45, chapter 5, and the provisions of Title 45 apply to [section 1].

-END-